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SUBJECT: BRAZIL'S WORKERS' CENTRALS GAIN LEGAL RECOGNITION,
GOVERNMENT FUNDS

REF: 06 SAO PAULO 280

SENSITIVE BUT UNCLASSIFIED - PLEASE PROTECT ACCORDINGLY

SUMMARY

¶1. (SBU) On March 11, Brazil's Chamber of Deputies passed a bill giving legal recognition to Brazil's labor Centrals. Although they have been playing an important role in Brazilian political life for many years, the Centrals have not been considered part of the national labor system, but rather have been treated up to now as NGOs. The legislation will enable such large organizations as the Unified Workers' Center (CUT) and Forca Sindical to share almost USD 50 million a year from the "imposto sindical" (union tax) fund. A provision that would have made the union tax voluntary was removed from the bill in the Senate after vigorous lobbying by labor leaders. The union tax remains one of the main pillars of Brazil's anachronistic and rigid industrial relations regime, which drives many workers into the informal economy and is often blamed for undermining Brazil's competitiveness in the global economy. Increasingly, trade unionism has become an end in itself, and union leaders are perceived by the public as parasites with no concern for rank-and file workers, living off the government. Hopes that President Lula, a renowned labor leader, would lead a vigorous fight for labor and industrial relations reform have been frustrated. End Summary.

AN ARCHAIC SYSTEM

¶2. (U) Background: The Brazilian labor system was created in the early 1940s by President/dictator Getulio Vargas and was modeled in part after the corporatist regime then operating in Italy under Mussolini. It is a pyramidal system with trade unions at the base and federations at the top. Vargas, progenitor of the 1943

Consolidation of Labor Laws (CLT) that still governs most aspects of Brazil's industrial labor relations, also created a compulsory tax, the imposto sindical, to fund the new system. Every registered worker pays one day's wages to the government every year, regardless of whether or not he/she is a member of a union. These funds, minus 20 percent retained by the federal government to support Labor Ministry social programs, are distributed to trade unions and federations. In 2006, the unions' total receipts were approximately USD 500 million.

FUNDS FOR THE WORKERS' CENTRALS

¶3. (U) The legislation aims to incorporate the five large Centrals and fourteen smaller ones, which currently have no official status, into one unified system. These Centrals are umbrella organizations which each encompass any number of unions and federations. They operate with large scope and on a political level, defending workers' interests in general rather than any specific union demand or wage issue. The bill will make the Centrals eligible to receive half of the 20 percent of imposto sindical revenues currently retained by the government, estimated at about USD 100 million. Funds will be allocated based on the size of each Central and the number of unions and workers affiliated with it. Large organizations, such as CUT and Forca Sindical - the second-largest Central - could each receive up to USD 10 million per year. The Centrals already receive funding from the Labor Ministry's Workers Support Funds (Portuguese acronym "FAT") for social programs and training, but the new revenues will double or treble their current budgets.

¶4. (U) (Note: The labor unions and federations have a counterpart in the private sector, which is also organized into associations and federations to represent employers' interests. Companies likewise

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pay their own version of the imposto sindical with their contributions funding the National Confederation of Industries (CNI) and its constituent groups in the states. These constituent groups include the very well-known Sao Paulo State Federation of Industries (FIESP), as well as groups such as Commercial Social Services (SESC), an organization directly supported by companies involved in trade. The pending legislation will affect only funding of labor Centrals and not their business counterparts. End Note.)

¶5. (U) In anticipation of this legislation, which now goes to the President to be signed, several new Centrals have been created, and previously existing ones have merged. One of the newest is the General Union of Workers (UGT), launched in July 2007. The UGT is the result of an agreement among three different unions and federations with some defectors from Forca Sindical, such as the Sao Paulo Union of Commercial Workers, and is expected to represent about 300,000 workers. Another new organization, the Central of Workers of Brazil (CTB), is being established by unions controlled by members of the Communist Party of Brazil (PC do B) which are severing their ties with the CUT to go their own way.

A CONTROVERSIAL TAX...

¶6. (SBU) The existence of the imposto sindical itself is highly controversial. The tax is credited with making it profitable to be a union leader. Though the funds that support the organizations derive from a compulsory tax, the unions and employers' associations are not required to comply with any requirements to qualify for the money. There are no mandatory membership minimums, nor do unions have to commit to specific goals or objectives, or negotiating targets, on behalf of their membership. As a result of this system of benefits without responsibilities, being a trade union leader has become for many an end in itself, and many labor leaders are publicly viewed as "pelegos" or stooges whose true loyalty is not to the workers but to the government that keeps the system alive and unchanged. (Comment: One benefit of the new legislation is that it does provide for an oversight mechanism to keep track of how the

union tax funds are spent. End Comment.)

¶7. (U) A prime example of the operation of the current system can be found in the Sao Paulo Union of Commercial Workers. While this union officially represents the 300,000 workers in the sector, and is allocated funds based on that number, fewer than six percent of the sector's commercial workers actually belong to the union. The President of the Confederation of Commercial Workers, Antonio Alves de Almeida, has held his position for the past 40 years and was cited in recent press reports as the personification of the lifelong union leader syndrome.

...SURVIVES A CHALLENGE

¶8. (SBU) There have been attempts to eliminate the union tax. Last October, the Chamber of Deputies approved a version of the legislation with a provision that would make it a voluntary contribution instead of a mandatory tax. The Senate, however, removed the provision from the text as a result of intense lobbying by representatives of labor unions, federations, and Centrals from all over the country. Such organizations as the CUT, Brazil's largest labor Central, which traces its roots back to union activities in the 1970s in Sao Bernardo do Campo led by current Brazilian President Luiz Inacio Lula da Silva, and had as one of its major aims the abolition of the imposto sindical, are now advocating vigorously against making the tax voluntary. Another long-time opponent of the union tax, Paulo Pereira da Silva, president of Forca Sindical, also lobbied to keep it mandatory. As a result, the final text of the bill maintains the current obligatory system whereby the tax is automatically discounted from workers' paychecks, while at the same time enabling the Centrals to partake of half of the government's allocation of the tax. The bill's rapporteur from

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the Labor and Public Service Administration Committee, Vincentinho (PT-Sao Paulo), a former CUT President and long-time Lula colleague in the labor movement, suggested that the government should, within 90 days, propose an alternative to the mandatory union tax.

¶9. (SBU) According to attorney and labor expert Ericson Crivelli, the bill appears to be the result of a negotiation between the Lula administration and workers' organizations, in which the government proposed legislation to benefit the Centrals in return for the labor movement's political support. Lula's labor roots and his popularity among workers help to explain the relative lack of high-profile and disruptive strikes in the country during his five years in office. Most of the strikes that did occur were carried out by public-sector workers led by Lula's second-tier political opponents, including the PC do B and Heloisa Helena's Socialism and Liberty Party (PSOL).

(NOTE: While the PC do B is formally part of Lula's governing coalition, there is significant disaffection in the Communist ranks, and the PC do B is showing increasing independence and even opposition to the ruling coalition, as illustrated not only by the creation of the new labor Central but also by a movement to run its own candidates in municipal elections in Sao Paulo and several other cities this year. End Note.) The large Centrals and the PT celebrated the bill's passage as correcting a deficiency in the country's labor regime.

COMMENT

¶10. (SBU) The imposto sindical and the rigid labor relations system it supports are among key factors keeping Brazil's labor costs among the highest in the world (see ref A). The labor regime is a major contributor, along with high taxes, education shortcomings and inadequate physical infrastructure, to the "custo Brasil" or cost of doing business in Brazil cited by so many observers as a major impediment to the country's competitiveness. Most experts blame the high cost and rigidity of the labor system - which businesses claim makes it almost impossible to fire anyone - for the fact that possibly as many as 60 percent of Brazil's workers operate in the informal sector. The strict rules are seen by legitimate companies

as an obstacle to hiring. Thus, many companies hire employees off the books, saving money and gaining flexibility in disciplinary matters and firing. These informal workers make no contribution to government revenue collections that support education, public health, Bolsa Familia, and other social programs. While there was initial optimism that the election of President Lula, a former labor leader, would translate into comprehensive labor reform, his administration has instead been responsible for perpetuating and expanding an existing system that most analysts agree is counterproductive to Brazil's economic health while concurrently not being particularly responsive to the needs of Brazilian workers. The passage of this legislation is unlikely to bring real benefits to Brazil's workers and further entrenches a system that has shown itself open to graft, corruption, and mismanagement. While the inclusion of a new oversight mechanism is a welcome addition to this legislation, it does not compensate for the continuation of an archaic system. End Comment.

11. (U) This cable was coordinated with and cleared by Embassy Brasilia.

STORY